

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**KEITH C. ELMER and
GREG M. DARLING.**

Defendants.

8:04CR535

ORDER

This matter is before the court on the motion to continue trial by defendant Greg M. Darling (Darling) (Filing No. 43). Darling seeks a continuance of the trial to conclude plea negotiations or prepare for trial. Darling's counsel has represented to the court that government's counsel and counsel for the co-defendant have no objection to the motion. Darling's counsel represents that Darling will submit an affidavit in accordance with paragraph 9 of the progression order whereby Darling consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Upon consideration, the motion will be granted and trial as to all remaining defendants shall be continued.

IT IS ORDERED:

1. Darling's motion to continue trial (Filing No. 43) is granted.
2. Trial of this matter is scheduled for **June 20, 2005**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **April 20, 2005 and June 20, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 20h day of April, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge